

SECOND REGULAR SESSION

SENATE BILL NO. 1382

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS QUICK AND GIBBONS.

Read 1st time March 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4076S.03I

AN ACT

To repeal sections 167.031, 167.051, 211.021, 211.031, 211.032, 211.033, 211.071, 211.073, 211.081, 211.091, 211.101, 211.161, 211.181, 211.321, 211.421, 211.425, 211.431, 565.020, 565.140, and 565.149, RSMo, and to enact in lieu thereof twenty new sections relating to the age of majority, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 167.031, 167.051, 211.021, 211.031, 211.032, 211.033, 211.071, 211.073, 211.081, 211.091, 211.101, 211.161, 211.181, 211.321, 211.421, 211.425, 211.431, 565.020, 565.140, and 565.149, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 167.031, 167.051, 211.021, 211.031, 211.032, 211.033, 211.071, 211.073, 211.081, 211.091, 211.101, 211.161, 211.181, 211.321, 211.421, 211.425, 211.431, 565.020, 565.140, and 565.149, to read as follows:

167.031. 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven and [sixteen] **eighteen** years is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven years in a public school program of academic instruction shall cause such child to attend the academic program on a regular basis, according to this section. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.061, except as provided by this section. A parent, guardian or other person in this state having charge, control, or custody of a child between the ages of seven and [sixteen] **eighteen** years of age shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

term of the school which the child attends; except that

(1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;

(2) A child between fourteen and [sixteen] **eighteen** years of age may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action; or

(3) A child between five and seven years of age shall be excused from attendance at school if a parent, guardian or other person having charge, control or custody of the child makes a written request that the child be dropped from the school's rolls.

(4) A child who successfully completes all secondary grade levels or a general educational development test prior to age eighteen shall not be required to attend school.

2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether incorporated or unincorporated, that:

- (a) Has as its primary purpose the provision of private or religious-based instruction;
- (b) Enrolls pupils between the ages of seven and [sixteen] **eighteen** years, of which no more than four are unrelated by affinity or consanguinity in the third degree; and
- (c) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction;

(2) As evidence that a child is receiving regular instruction, the parent shall:

- (a) Maintain the following records:
 - a. A plan book, diary, or other written record indicating subjects taught and activities engaged in; and
 - b. A portfolio of samples of the child's academic work; and
 - c. A record of evaluations of the child's academic progress; or
 - d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and
- (b) Offer at least one thousand hours of instruction, at least six hundred hours of which will be in reading, language arts, mathematics, social studies and science or academic courses that are related to the aforementioned subject areas and consonant with the pupil's age and ability. At least four hundred of the six hundred hours shall occur at the regular home school location.

3. Nothing in this section shall require a private, parochial, parish or home school to include in its curriculum any concept, topic, or practice in conflict with the school's religious

doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all departments or agencies of the state of Missouri shall be prohibited from dictating through rule, regulation or other device any statewide curriculum for private, parochial, parish or home schools.

4. A school year begins on the first day of July and ends on the thirtieth day of June following.

5. The production by a parent of a daily log showing that a home school has a course of instruction which satisfies the requirements of this section shall be a defense to any prosecution under this section and to any charge or action for educational neglect brought pursuant to chapter 210, RSMo.

167.051. [1. If a school board establishes part-time schools or classes for children under sixteen years of age, lawfully engaged in any regular employment, every parent, guardian or other person having charge, control or custody of such a child shall cause the child to attend the school not less than four hours a week between the hours of eight o'clock in the morning and five o'clock in the evening during the school year of the part-time classes.

2.] All children who are under eighteen years of age, who have not completed the elementary school course in the public schools of Missouri, or its equivalent, and who are not attending regularly any day school shall be required to attend regularly the part-time classes not less than four hours a week between the hours of eight o'clock in the morning and five o'clock in the afternoon during the entire year of the part-time classes.

211.021. As used in this chapter, unless the context clearly requires otherwise:

(1) "Adult" means a person [seventeen] **eighteen** years of age or older;

(2) "Child" means a person under [seventeen] **eighteen** years of age;

(3) "Juvenile court" means the juvenile division or divisions of the circuit court of the county, or judges while hearing juvenile cases assigned to them;

(4) "Legal custody" means the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, treatment and discipline of a child. Legal custody may be taken from a parent only by court action and if the legal custody is taken from a parent without termination of parental rights, the parent's duty to provide support continues even though the person having legal custody may provide the necessities of daily living;

(5) "Parent" means either a natural parent or a parent by adoption and if the child is illegitimate, "parent" means the mother;

(6) "Shelter care" means the temporary care of juveniles in physically unrestricting facilities pending final court disposition. These facilities may include:

(a) "Foster home", the private home of foster parents providing twenty-four-hour care to one to three children unrelated to the foster parents by blood, marriage or adoption;

(b) "Group foster home", the private home of foster parents providing twenty-four-hour care to no more than six children unrelated to the foster parents by blood, marriage or adoption;

(c) "Group home", a child care facility which approximates a family setting, provides access to community activities and resources, and provides care to no more than twelve children.

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child [or person seventeen years of age] who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child [or person seventeen years of age], neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child [or person seventeen years of age] shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child [or person seventeen years of age] is otherwise without proper care, custody or support; or

(c) The child [or person seventeen years of age] was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child [or person seventeen years of age] is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any

child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of [seventeen] **eighteen** years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child [or person seventeen years of age] to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child [or person seventeen years of age] who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child [or person seventeen years of age] may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence [or the residence of the person seventeen years of age] for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child [or person seventeen years of age] to the court located in the county of the child's residence [or the residence of the person seventeen years of age], or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child [or person seventeen years of age] to the court located in the county of the child's residence [or the residence of the person seventeen years of age] for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child [or person seventeen years of age] under the supervision of another juvenile court within or without the state pursuant to section 210.570,

RSMo, with the consent of the receiving court;

(5) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child [or person seventeen years of age], certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child [or person seventeen years of age] taken into custody in a county other than the county of the child's residence [or the residence of a person seventeen years of age], the juvenile court of the county of the child's residence [or the residence of a person seventeen years of age] shall be notified of such taking into custody within seventy-two hours.

211.032. 1. When a child [or person seventeen years of age], alleged to be in need of care and treatment pursuant to subdivision (1) of subsection 1 of section 211.031, is taken into custody, the juvenile or family court shall notify the parties of the right to have a protective custody hearing. Such notification shall be in writing.

2. Upon request from any party, the court shall hold a protective custody hearing. Such hearing shall be held within three days of the request for a hearing, excluding Saturdays, Sundays and legal holidays.

3. At the protective custody hearing the court may receive testimony and other evidence relevant to the necessity of detaining the child out of the custody of the parents, guardian or custodian.

211.033. No person under the age of [seventeen] **eighteen** years, except those transferred to the court of general jurisdiction under the provisions of section 211.071 shall be detained in a jail or other adult detention facility as that term is defined in section 211.151. A traffic court judge may request the juvenile court to order the commitment of a person under the age of [seventeen] **eighteen** to a juvenile detention facility.

211.071. 1. If a petition alleges that a child between the ages of twelve and [seventeen] **eighteen** has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child **ten years of age or more** has committed an offense which would be considered first degree murder under section 565.020, RSMo, second degree murder under section 565.021, RSMo, first degree assault under section 565.050, RSMo, forcible rape under section 566.030, RSMo, forcible sodomy under section 566.060, RSMo, first degree robbery under section 569.020, RSMo, or distribution of drugs under section 195.211, RSMo, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a

court of general jurisdiction for prosecution under the general law.

2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly committed by any person between [seventeen] **eighteen** and twenty-one years of age over whom the juvenile court has retained continuing jurisdiction shall automatically terminate and that offense shall be dealt with in the court of general jurisdiction as provided in section 211.041.

3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any action or proceeding which occurs based upon the misrepresentation. Any evidence obtained during the period of time in which a child misrepresents his age may be used against the child and will be subject only to rules of evidence applicable in adult proceedings.

4. Written notification of a transfer hearing shall be given to the juvenile and his custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the hearing is to determine whether the child is a proper subject to be dealt with under the provisions of this chapter, and that if the court finds that the child is not a proper subject to be dealt with under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the child under the general law.

5. The juvenile officer may consult with the office of prosecuting attorney concerning any offense for which the child could be certified as an adult under this section. The prosecuting or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses and all other records or reports relating to the offense alleged to have been committed by the child. The prosecuting or circuit attorney shall have access to the disposition records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information regarding the child and the offense until the juvenile court at a judicial hearing has determined that the child is not a proper subject to be dealt with under the provisions of this chapter.

6. A written report shall be prepared in accordance with this chapter developing fully all available information relevant to the criteria which shall be considered by the court in determining whether the child is a proper subject to be dealt with under the provisions of this chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice system. These criteria shall include but not be limited to:

(1) The seriousness of the offense alleged and whether the protection of the community requires transfer to the court of general jurisdiction;

(2) Whether the offense alleged involved viciousness, force and violence;

(3) Whether the offense alleged was against persons or property with greater weight being given to the offense against persons, especially if personal injury resulted;

(4) Whether the offense alleged is a part of a repetitive pattern of offenses which

indicates that the child may be beyond rehabilitation under the juvenile code;

(5) The record and history of the child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions and other placements;

(6) The sophistication and maturity of the child as determined by consideration of his home and environmental situation, emotional condition and pattern of living;

(7) The age of the child;

(8) The program and facilities available to the juvenile court in considering disposition;

(9) Whether or not the child can benefit from the treatment or rehabilitative programs available to the juvenile court; and

(10) Racial disparity in certification.

7. If the court dismisses the petition to permit the child to be prosecuted under the general law, the court shall enter a dismissal order containing:

(1) Findings showing that the court had jurisdiction of the cause and of the parties;

(2) Findings showing that the child was represented by counsel;

(3) Findings showing that the hearing was held in the presence of the child and his counsel; and

(4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

8. A copy of the petition and order of the dismissal shall be sent to the prosecuting attorney.

9. When a petition has been dismissed thereby permitting a child to be prosecuted under the general law, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a violation of a state law or municipal ordinance.

10. If a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense committed by that child which would be considered a misdemeanor or felony if committed by an adult, subject to the certification provisions of this section.

11. If the court does not dismiss the petition to permit the child to be prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in section 211.171.

211.073. 1. The court may, in a case when the offender is under [seventeen] **eighteen** years of age and has been transferred to a court of general jurisdiction pursuant to section 211.071, and whose prosecution results in a conviction or a plea of guilty, invoke dual jurisdiction of both the criminal and juvenile codes, as set forth in this section. The court is authorized to impose a juvenile disposition under this chapter and simultaneously

impose an adult criminal sentence, the execution of which shall be suspended pursuant to the provisions of this section. Successful completion of the juvenile disposition ordered shall be a condition of the suspended adult criminal sentence. The court may order an offender into the custody of the division of youth services pursuant to this section if:

(1) A facility is designed and built by the division of youth services specifically for offenders sentenced pursuant to this section and if the division determines that there is space available, based on design capacity, in the facility; and

(2) Upon agreement of the division.

2. If there is probable cause to believe that the offender has violated a condition of the suspended sentence or committed a new offense, the court shall conduct a hearing on the violation charged, unless the offender waives such hearing. If the violation is established and found the court may continue or revoke the juvenile disposition, impose the adult criminal sentence, or enter such other order as it may see fit.

3. When an offender has received a suspended sentence pursuant to this section and the division determines the child is beyond the scope of its treatment programs, the division of youth services may petition the court for a transfer of custody of the offender. The court shall hold a hearing and shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections; or

(2) Direct that the offender be placed on probation.

4. When an offender who has received a suspended sentence reaches the age of [seventeen] **eighteen**, the court shall hold a hearing. The court shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections;

(2) Direct that the offender be placed on probation; or

(3) Direct that the offender remain in the custody of the division of youth services if the division agrees to such placement.

5. The division of youth services shall petition the court for a hearing before it releases an offender who comes within subsection 1 of this section at any time before the offender reaches the age of twenty-one years. The court shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections; or

(2) Direct that the offender be placed on probation.

6. If the suspension of the adult criminal sentence is revoked, all time served by the offender under the juvenile disposition shall be credited toward the adult criminal sentence imposed.

211.081. 1. Whenever any person informs the court in person and in writing that a child appears to be within the purview of applicable provisions of section 211.031 [or that a

person seventeen years of age appears to be within the purview of the provisions of subdivision (1) of subsection 1 of section 211.031], the court shall make or cause to be made a preliminary inquiry to determine the facts and to determine whether or not the interests of the public or of the child [or person seventeen years of age] require that further action be taken. On the basis of this inquiry, the juvenile court may make such informal adjustment as is practicable without a petition or may authorize the filing of a petition by the juvenile officer. Any other provision of this chapter to the contrary notwithstanding, the juvenile court shall not make any order for disposition of a child [or person seventeen years of age] which would place or commit the child [or person seventeen years of age] to any location outside the state of Missouri without first receiving the approval of the division of family services.

2. Placement in any institutional setting shall represent the least restrictive appropriate placement for the child [or person seventeen years of age] and shall be recommended based upon a psychological or psychiatric evaluation or both. Prior to entering any order for disposition of a child [or person seventeen years of age] which would order residential treatment or other services inside the state of Missouri, the juvenile court shall enter findings which include the recommendation of the psychological or psychiatric evaluation or both; and certification from the division director or designee as to whether a provider or funds or both are available, including a projection of their future availability. If the division of family services indicates that funding is not available, the division shall recommend and make available for placement by the court an alternative placement for the child [or person seventeen years of age]. The division shall have the burden of demonstrating that they have exercised due diligence in utilizing all available services to carry out the recommendation of the evaluation team and serve the best interest of the child [or person seventeen years of age]. The judge shall not order placement or an alternative placement with a specific provider but may reasonably designate the scope and type of the services which shall be provided by the department to the child [or person seventeen years of age].

3. Obligations of the state incurred under the provisions of section 211.181 shall not exceed, in any fiscal year, the amount appropriated for this purpose.

211.091. 1. The petition shall be entitled "In the interest of, a child under [seventeen] **eighteen** years of age". [If a petition is filed pursuant to the provisions of subdivision (1) of subsection 1 of section 211.031, the petition shall be entitled "In the interest of, a child under seventeen years of age" or "In the interest of, a person seventeen years of age".]

2. The petition shall set forth plainly:

(1) The facts which bring the child [or person seventeen years of age] within the jurisdiction of the court;

(2) The full name, birth date, and residence of the child [or person seventeen years of age];

(3) The names and residence of his parents, if living;

(4) The name and residence of his legal guardian if there be one, of the person having custody of the child [or person seventeen years of age] or of the nearest known relative if no parent or guardian can be found; and

(5) Any other pertinent data or information.

3. If any facts required in subsection 2 of this section are not known by the petitioner, the petition shall so state.

4. Prior to the voluntary dismissal of a petition filed under this section, the juvenile officer shall assess the impact of such dismissal on the best interests of the child, and shall take all actions practicable to minimize any negative impact.

211.101. 1. After a petition has been filed, unless the parties appear voluntarily, the juvenile court shall issue a summons in the name of the state of Missouri requiring the person who has custody of the child [or person seventeen years of age] to appear personally and, unless the court orders otherwise, to bring the child [or person seventeen years of age] before the court, at the time and place stated.

2. If the person so summoned is other than a parent or guardian of the child [or person seventeen years of age], then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed.

3. If it appears that the child [or person seventeen years of age] is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the judge may order, by endorsement upon the summons, the officer serving it to take the child [or person seventeen years of age] into custody at once.

4. Subpoena may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

211.161. 1. The court may cause any child [or person seventeen years of age] within its jurisdiction to be examined by a physician, psychiatrist or psychologist appointed by the court in order that the condition of the child [or person seventeen years of age] may be given consideration in the disposition of his case. The expenses of the examination when approved by the court shall be paid by the county, except that the county shall not be liable for the costs of examinations conducted by the department of mental health either directly or through contract.

2. The services of a state, county or municipally maintained hospital, institution, or psychiatric or health clinic may be used for the purpose of this examination and treatment.

3. A county may establish medical, psychiatric and other facilities, upon request of the juvenile court, to provide proper services for the court in the diagnosis and treatment of children [or persons seventeen years of age] coming before it and these facilities shall be

under the administration and control of the juvenile court. The juvenile court may appoint and fix the compensation of such professional and other personnel as it deems necessary to provide the court proper diagnostic, clinical and treatment services for children [or persons seventeen years of age] under its jurisdiction.

211.181. 1. When a child [or person seventeen years of age] is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child [or person seventeen years of age], and the court may, by order duly entered, proceed as follows:

(1) Place the child [or person seventeen years of age] under supervision in his own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child [or person seventeen years of age] to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child [or person seventeen years of age] may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child [or person seventeen years of age] in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child [or person seventeen years of age] in a family home;

(4) Cause the child [or person seventeen years of age] to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child [or person seventeen years of age] requires it, cause the child [or person seventeen years of age] to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child [or person seventeen years of age] whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) The court may order, pursuant to subsection 2 of section 211.081, that the child receive the necessary services in the least restrictive appropriate environment including home and community-based services, treatment and support, based on a coordinated, individualized treatment plan. The individualized treatment plan shall be approved by the court and developed by the applicable state agencies responsible for providing or paying for

any and all appropriate and necessary services, subject to appropriation, and shall include which agencies are going to pay for and provide such services. Such plan must be submitted to the court within thirty days and the child's family shall actively participate in designing the service plan for the child [or person seventeen years of age].

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court. Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child, and the court may, by order duly entered,

proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

(4) Place the child in a family home;

(5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;

(7) Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

(8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child under this subdivision, or who benefits from any services performed as a result of an order issued under this subdivision,

shall be immune from any suit by the child ordered to perform services under this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;

(9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185.

211.321. 1. Records of juvenile court proceedings as well as all information obtained and social records prepared in the discharge of official duty for the court shall not be open to inspection or their contents disclosed, except by order of the court to persons having a legitimate interest therein, unless a petition or motion to modify is sustained which charges the child with an offense which, if committed by an adult, would be a class A felony under the criminal code of Missouri, or capital murder, first degree murder, or second degree murder or except as provided in subsection 2 of this section. In addition, whenever a report is required under section 557.026, RSMo, there shall also be included a complete list of certain violations of the juvenile code for which the defendant had been adjudicated a delinquent while a juvenile. This list shall be made available to the probation officer and shall be included in the presentence report. The violations to be included in the report are limited to the following: rape, sodomy, murder, kidnapping, robbery, arson, burglary or any acts involving the rendering or threat of serious bodily harm. The supreme court may promulgate rules to be followed by the juvenile courts in separating the records.

2. In all proceedings under subdivisions (1) and (2) of subsection 1 of section 211.031, the records of the juvenile court as well as all information obtained and social records prepared in the discharge of official duty for the court shall be kept confidential and shall be open to inspection only by order of the judge of the juvenile court or as otherwise provided by statute. In all proceedings under subdivision (3) of subsection 1 of section 211.031 the records of the juvenile court as well as all information obtained and social records prepared in the discharge of official duty for the court shall be kept confidential and may be open to inspection without court order only as follows:

(1) The juvenile officer is authorized at any time:

(a) To provide information to or discuss matters concerning the child, the violation of law or the case with the victim, witnesses, officials at the child's school, law enforcement officials, prosecuting attorneys, any person or agency having or proposed to have legal or actual care, custody or control of the child, or any person or agency providing or proposed to provide treatment of the child. Information received pursuant to this paragraph shall not be released to the general public, but shall be released only to the persons or agencies listed in this paragraph;

(b) To make public information concerning the offense, the substance of the petition, the status of proceedings in the juvenile court and any other information which does not specifically identify the child or the child's family;

(2) After a child has been adjudicated delinquent pursuant to subdivision (3) of subsection 1 of section 211.031, for an offense which would be a felony if committed by an adult, the records of the dispositional hearing and proceedings related thereto shall be open to the public to the same extent that records of criminal proceedings are open to the public. However, the social summaries, investigations or updates in the nature of

presentence investigations, and status reports submitted to the court by any treating agency or individual after the dispositional order is entered shall be kept confidential and shall be opened to inspection only by order of the judge of the juvenile court;

(3) As otherwise provided by statute;

(4) In all other instances, only by order of the judge of the juvenile court.

3. Peace officers' records, if any are kept, of children shall be kept separate from the records of persons [seventeen] **eighteen** years of age or over and shall not be open to inspection or their contents disclosed, except by order of the court. This subsection does not apply to children who are transferred to courts of general jurisdiction as provided by section 211.071 or to juveniles convicted under the provisions of sections 578.421 to 578.437, RSMo. This subsection does not apply to the inspection or disclosure of the contents of the records of peace officers for the purpose of pursuing a civil forfeiture action pursuant to the provisions of section 195.140, RSMo.

4. Nothing in this section shall be construed to prevent the release of information and data to persons or organizations authorized by law to compile statistics relating to juveniles. The court shall adopt procedures to protect the confidentiality of children's names and identities.

5. The court may, either on its own motion or upon application by the child or his representative, or upon application by the juvenile officer, enter an order to destroy all social histories, records, and information, other than the official court file, and may enter an order to seal the official court file, as well as all peace officers' records, at any time after the child has reached his [seventeenth] **eighteenth** birthday if the court finds that it is in the best interest of the child that such action or any part thereof be taken, unless the jurisdiction of the court is continued beyond the child's [seventeenth] **eighteenth** birthday, in which event such action or any part thereof may be taken by the court at any time after the closing of the child's case.

6. Nothing in this section shall be construed to prevent the release of general information regarding the informal adjustment or formal adjudication of the disposition of a child's case to a victim or a member of the immediate family of a victim of any offense committed by the child. Such general information shall not be specific as to location and duration of treatment or detention or as to any terms of supervision.

7. Records of juvenile court proceedings as well as all information obtained and social records prepared in the discharge of official duty for the court shall be disclosed to the child fatality review panel reviewing the child's death pursuant to section 210.192, RSMo, unless the juvenile court on its own motion, or upon application by the juvenile officer, enters an order to seal the records of the victim child.

211.421. 1. After any child has come under the care or control of the juvenile court as provided in this chapter, any person who thereafter encourages, aids, or causes the child

to commit any act or engage in any conduct which would be injurious to the child's morals or health or who knowingly or negligently disobeys, violates or interferes with a lawful order of the court with relation to the child, is guilty of contempt of court, and shall be proceeded against as now provided by law and punished by imprisonment in the county jail for a term not exceeding six months or by a fine not exceeding five hundred dollars or by both such fine and imprisonment.

2. If it appears at a juvenile court hearing that any person [seventeen] **eighteen** years of age or over has violated section 568.045 or 568.050, RSMo, by endangering the welfare of a child, the judge of the juvenile court shall refer the information to the prosecuting or circuit attorney, as the case may be, for appropriate proceedings.

211.425. 1. Any person who has been adjudicated a delinquent by a juvenile court for committing or attempting to commit a sex-related offense which if committed by an adult would be considered a felony offense pursuant to chapter 566, RSMo, including, but not limited to, rape, forcible sodomy, child molestation and sexual abuse, shall be considered a juvenile sex offender and shall be required to register as a juvenile sex offender by complying with the registration requirements provided for in this section. This requirement shall also apply to any person who is or has been adjudicated a juvenile delinquent in any other state or federal jurisdiction for committing or attempting to commit offenses which would be proscribed herein.

2. Any state agency having supervision over a juvenile required to register as a juvenile sex offender or any court having jurisdiction over a juvenile required to register as a juvenile sex offender, or any person required to register as a juvenile sex offender, shall, within ten days of the juvenile offender moving into any county of this state, register with the juvenile office of the county. If such juvenile offender changes residence or address, the state agency, court or person shall inform the juvenile office within ten days of the new residence or address and shall also be required to register with the juvenile office of any new county of residence. Registration shall be accomplished by completing a registration form similar to the form provided for in section 589.407, RSMo. Such form shall include, but is not limited to, the following:

(1) A statement in writing signed by the juvenile, giving the juvenile's name, address, Social Security number, phone number, school in which enrolled, place of employment, offense which requires registration, including the date, place, and a brief description of such offense, date and place of adjudication regarding such offense, and age and gender of the victim at the time of the offense; and

(2) The fingerprints and a photograph of the juvenile.

3. Juvenile offices shall maintain the registration forms of those juvenile offenders in their jurisdictions who register as required by this section. Information contained on the registration forms shall be kept confidential and may be released by juvenile offices to only

those persons and agencies who are authorized to receive information from juvenile court records as provided by law, including, but not limited to, those specified in section 211.321. State agencies having custody of juveniles who fall within the registration requirements of this section shall notify the appropriate juvenile offices when such juvenile offenders are being transferred to a location falling within the jurisdiction of such juvenile offices.

4. Any juvenile who is required to register pursuant to this section but fails to do so or who provides false information on the registration form is subject to disposition pursuant to this chapter. Any person [~~seventeen~~] **eighteen** years of age or over who commits such violation is guilty of a class A misdemeanor as provided for in section 211.431.

5. Any juvenile to whom the registration requirement of this section applies shall be informed by the official in charge of the juvenile's custody, upon the juvenile's discharge or release from such custody, of the requirement to register pursuant to this section. Such official shall obtain the address where such juvenile expects to register upon being discharged or released and shall report the juvenile's name and address to the juvenile office where the juvenile will be required to register. This requirement to register upon discharge or release from custody does not apply in situations where the juvenile is temporarily released under guard or direct supervision from a detention facility or similar custodial facility.

6. The requirement to register as a juvenile sex offender shall terminate upon the juvenile offender reaching age twenty-one, unless such juvenile offender is required to register as an adult offender pursuant to section 589.400, RSMo.

211.431. Any person [~~seventeen~~] **eighteen** years of age or over who willfully violates, neglects or refuses to obey or perform any lawful order of the court, or who violates any provision of this chapter is guilty of a class A misdemeanor.

565.020. 1. A person commits the crime of murder in the first degree if he knowingly causes the death of another person after deliberation upon the matter.

2. Murder in the first degree is a class A felony, and the punishment shall be either death or imprisonment for life without eligibility for probation or parole, or release except by act of the governor; except that, if a person has not reached his **or her** [~~sixteenth~~] **eighteenth** birthday at the time of the commission of the crime, the punishment shall be imprisonment for life without eligibility for probation or parole, or release except by act of the governor.

565.140. 1. A person does not commit false imprisonment under section 565.130 if the person restrained is a child under the age of [~~seventeen~~] **eighteen** and

(1) A parent, guardian or other person responsible for the general supervision of the child's welfare has consented to the restraint; or

(2) The actor is a relative of the child; and

(a) The actor's sole purpose is to assume control of the child; and

(b) The child is not taken out of the state of Missouri.

2. For the purpose of this section, "relative" means a parent or stepparent, ancestor, sibling, uncle or aunt, including an adoptive relative of the same degree through marriage or adoption.

3. The defendant shall have the burden of injecting the issue of a defense under this section.

565.149. As used in sections 565.149 to 565.169, the following words and phrases mean:

- (1) "Child", a person under [seventeen] **eighteen** years of age;
- (2) "Legal custody", the right to the care, custody and control of a child;
- (3) "Parent", either a biological parent or a parent by adoption;
- (4) "Person having a right of custody", a parent or legal guardian of the child.

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